

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 12941 of 2004

Between:

A.L.Prasad, S/o. Sitarama Swamy,

Aged 59 years, Manager (Retired),
DCCB, Khammam, R/o Khammam

..... PETITIONER

AND

The District Cooperative Central Bank

rep.by its General Manager, Khammam.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction particularly one in the nature of Writ of Mandamus declaring the action of the respondent in with-holding the leave salary for the recovery of the alleged deficit in gold auction from the retirement benefits on superannuation of the petitioner on 30.06.2004 vide the impugned letter in Rc.No.1049/Estt/2003-04 dated 30-06-2004 without conducting any disciplinary inquiry as totally illegal and without jurisdiction and consequently direct the respondent to release and pay the leave salary of the petitioner with interest from the

date of superannuation to the date of payment in the interest of justice.

Counsel for the Petitioner: MR.S.LAKSHMA REDDY

Counsel for the Respondent : MR.P.M.GOPAL RAO.

The Court at the stage of admission made the following :

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THE HONOURABLE DR. JUSTICE G.YETHIRAJULU

Writ Petition No.12941 of 2004

ORDER:

The petitioner has worked as a Manager in the respondent/Bank. He retired from service on 30.06.2004 on attaining the age of superannuation. On 07.07.2004 the respondent served two letters dated 30.06.2004 on the petitioner, stating that the payment in respect of the leave salary will be done after the settlement of gold loan deficit amount pertaining to Kunavaram Branch and through another letter dated 30.06.2004, it was mentioned that the explanation offered by the petitioner on 29.06.2004 to the show-cause notice was not satisfactory, therefore, he is directed to remit the deficit amount of Rs.33,509/- along with interest.

2. The petitioner being aggrieved by the order of stoppage of payment of leave salary and directing to remit the deficit amount, approached this Court through this writ petition, seeking to declare that the withholding of the leave salary and ordering recovery of the deficit amount in the gold auction without any disciplinary enquiry as illegal and without jurisdiction.

3. After going through the impugned order, it is noticed that a notice was issued to the petitioner and after receiving his explanation, the impugned orders were passed. There is no mention anywhere, whether any enquiry as contemplated under Section 60 of the Andhra Pradesh Co-operative Societies Act, 1964 was conducted. In the absence of such enquiry, the order cannot be said to be a legal one, therefore, it is liable to be set aside. Since there is violation in following the procedure prescribed

under the Act, the impugned Order dated 30.06.2004 is set aside. This order will not preclude the respondent/Bank to proceed against the petitioner regarding the deficit amount relating to gold auction said to be payable by the petitioner according to the Act and the rules.

4. The writ petition is accordingly disposed of. No order as to costs.

Dr.G.YETHIRAJULU, J

Dated: 28th September, 2004.

Cs

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The General Manager, District Cooperative Central Bank, Khammam.
2. Two C.D. copies.